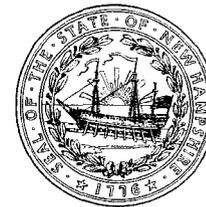




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 11, 2005

Mr. Richard Fitz
43 Benton Road
Hooksett, New Hampshire 03106

CERTIFIED MAIL (7099 3400 0018 1290 2490)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

RE: Non-Conforming Open Burning

Dear Mr. Fitz:

On June 28, 2004, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") was notified by Hooksett Fire Warden Harold Murray that non-conforming materials had been burned at Chester Turnpike and Whitehall Road in Hooksett, New Hampshire (the "Property"). Fire Warden Murray reported that the Hooksett Fire Department ("HFD") had responded to the Property, identified you as being responsible for the burning, and extinguished the fire. Warden Murray informed DES that he would submit photographs taken by the HFD of the burn pile on the Property.

On June 28, 2004 DES received photographs of the burn pile. The photographs clearly show non-conforming material including charred metal, tin cans, plastic, and logs greater than five inches in diameter in the burn pile on the Property.

On December 7, 2004 DES received a copy of the incident report from the HFD. The information submitted showed that you obtained a burn permit from the HFD for the purpose of burning brush at 43 Benton Road, Hooksett, on June 22, 2004. However, the burning actually occurred at the Property rather than at the Benton Road address. The information provided to DES by HFD officials indicated that the burning was not done in conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. As a result of the information gathered, DES has determined that violations occurred.

The purpose of this letter is to notify you of the violations discovered, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violations are as follows:

- Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05 (d) allows periodic on-site burning of brush by the landowner and allows the burning of untreated wood from the construction or demolition of a building. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.
- Env-A 1001.03(a) defines "brush" as tree tops, limbs, saplings, and tree cuttings that are five inches in diameter or less.
- Env-A 1001.03(k) defines "untreated wood" as any timber, board, or sawn dimensional lumber, which has not been treated, coated, or preserved.

Since the burning of non-conforming materials has ceased, DES believes that no further action is required at this time in response to the listed violations. However, in the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Joseph Ritz at (603) 271-1391, Air Resources Division, Compliance Bureau. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm>, or by contacting the Public Information Center at (603) 271-2975.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enclosure: Env-A 1001, *Open Burning*

cc: R. Kurowski, EPA Region 1
G. Hamel, Legal Unit Administrator
Chief M. Williams, Hooksett Fire Department
H. Murray, Hooksett Forest Fire Warden
Chairman, Hooksett Town Council
AFS # 33013 9777